

practicable, consistent with Federal procurement law. There are four components to an affirmative procurement program: (1) A preference program; (2) a promotion program; (3) procedures for requiring, obtaining and verifying estimates and certifications of recovered materials content; and, (4) an annual review and monitoring.

Designated item is an item that has been designated in an EPA procurement guideline as an item that is or can be produced using recovered materials whose procurement will advance the purpose of RCRA.

Minimum-content standard is the minimum content of recovered materials that a designated item must contain pursuant to specifications implementing the Department's preference program.

Postconsumer recovered materials are waste materials recovered from retail stores, office buildings, homes, and so forth after they have passed through their end usage as a consumer item. Waste paper includes all items from the first two categories above in addition to forest residues, and manufacturing and other wastes.

Procurement guidelines are guidelines issued by the EPA pursuant to Section 6002 of RCRA: (1) Identifying items that are or can be produced with recovered materials and where procurement will advance the objectives of the Act; and, (2) providing recommended practices for the procurement of such items.

Recovered materials are waste materials and by-products that have been recovered or diverted from solid waste, not including those materials and by-products generated from, and commonly reused within, an original manufacturing process.

Unreasonable price is the price for products containing recovered materials which exceeds alternatives made with virgin materials by 10 percent or more, and which the requirements office initiating the acquisition substantiates as exorbitant.

623.474 EPA guidelines.

(a) The EPA has published five guidelines that designate the following items that are or can be produced using

recovered materials. Accordingly, contracting activities shall procure items produced using recovered materials to the maximum extent possible when procuring these designated items:

(1) Cement and concrete containing fly ash, 40 CFR part 249;

(2) Paper and paper products, 40 CFR part 250;

(3) Lubricating oils, 40 CFR part 252;

(4) Retread tires, 40 CFR part 253; and,

(5) Building insulation products, 40 CFR part 248.

(b) Copies of these guidelines, as well as future guidelines promulgated by EPA, may be obtained by calling EPA's Recycled Products Information Clearinghouse at (703) 941-4452.

(c) These guidelines are applicable when the Department purchases more than \$10,000 worth of a designated item, or if the cost of all such items purchased by the Department during the preceding Fiscal Year was \$10,000 or more.

§623.475 Responsibilities.

(a) The requirements office initiating an acquisition is responsible for determining whether recovered materials should be included in the specifications. Requirements offices may purchase items subject to the guidelines containing other than recovered materials only if:

(1) The price of items with recovered materials is unreasonable;

(2) The requirement for items produced with recovered materials results in inadequate competition or adversely affects small business or the Department's metrication program;

(3) Obtaining items with recovered materials results in unusual and unreasonable delays; or

(4) Items produced with recovered materials do not meet all reasonable performance specifications.

(b) If the requirements office chooses to procure designated items that do not contain recovered materials, a written justification must be submitted to the contracting officer.

623.476 Preference programs for guideline items.**623.476-1 Preference program for the purchase of cement and concrete containing fly ash.**

Domestic contracts requiring the purchase of cement and concrete shall specify the performance requirements of the products required under the contract using appropriate standards/specifications when available. Consistent with such performance specifications, such contracts shall allow the contractor to deliver cement and concrete products that contain fly ash, a component of coal resulting from its combustion in electrical generating plants. Architects/Engineers shall specify performance requirements for the concrete to be supplied.

623.476-2 Preference program for building insulation products containing recovered materials.

Minimum content standards for building insulation products have been established by EPA guidelines. Domestic contracts for the design of structures that will utilize building insulation products shall require that the Architect/Engineer include, as a design consideration, the Department preference for the use of building insulation produced with recovered materials. Such contracts shall require that the Architect/Engineer specify the type of building insulation products to be supplied and shall require the Architect/Engineer to justify, in writing, the basis of the selected product type if it is not in accordance with the EPA guideline.

623.476-3 Preference program for lubricating oils containing recovered materials.

Contracts requiring the supply of lubricating oils, hydraulic fluids and gear oils shall require that products conform to the EPA guideline.

623.476-4 Preference program for retread tires.

Contracts requiring replacement tires for automobiles, light and heavy trucks and trailers, and off-road tires shall specify that retreading services shall be obtained if the carcass is retreadable. If such retreading services

are not practicable, replacement tires shall be procured in accordance with the EPA guideline.

623.476-5 Preference program for paper and paper products containing recovered materials.

(a) All contracts requiring the purchase of paper and paper products shall require that paper and paper products delivered to the Department meet the EPA guideline for recycled paper.

(b) Contracting officers shall require contractors to use recycled paper when submitting reports and other deliverables to the Department, when feasible.

(c) Contracting officers shall require offerors/bidders to submit proposals/bids on recycled paper, double-sided copying to the maximum extent possible.

623.477 Promotion program.

Items composed of recovered materials shall be purchased under all new domestic contracts to the maximum extent practicable. Contracting officers shall promote the fact that the Department is seeking to buy items containing recovered materials at pre-proposal and pre-bid conferences when appropriate.

623.478 Evaluation and certification.

(a) Contracting officers shall ensure that vendors estimate in their offers/bids the percentage of recovered material of the total content of designated items to be used under the contract.

(b) Contracting officers shall ensure that contractors certify the percentage of recovered materials contained in designated items actually supplied under the contract.

623.479 Annual review and monitoring.

The effectiveness of the preference program shall be reviewed annually by A/OPE. An assessment will be made to determine if greater use of recovered material is possible for the existing requirements or if recovered materials are causing undue delay, lack of competition, unreasonable prices or an unacceptable level of performance.